APPEAL NO. 020853
FILED MAY 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 11, 2002. The hearing officer determined that the appellant (claimant) did not sustain a work-related injury nor have disability from such alleged injury. She further held that the claimant's 1998 injury was a producing cause of his current back condition.

The claimant has appealed, arguing evidence he believes proves a new injury. The respondent (self-insured) responds that the decision is supported by the evidence.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in her decision. Whether an injury is a new injury or continuation of an old injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 962183, decided December 16, 1996. Essentially, the claimant quarrels with the manner in which the hearing officer gave weight and credibility to the evidence. Testimonial and medical evidence were conflicting, and the hearing officer, as the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing, had to resolve these conflicts. Section 410.165(a). We note that a doctor appointed by the Texas Workers' Compensation Commission to examine the claimant concluded that the claimant's problems were, in all medical probability, connected to the natural degenerative process from his 1998 injury and surgery.

The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The record in this case presented conflicting evidence for the hearing officer to resolve.

In considering all the evidence in the record, we cannot agree that the findings of the hearing officer on injury and disability, and continuation of the old injury, are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

JW
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Susan M. Kelley
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Roy L. Warren
Appeals Judge